

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the Pasadena Avenue Monterey Road Committee for variance of General Order 143B and authority to explore and enter into negotiations for consideration and implementation pursuant to Public Utilities Code (PUC) §§ 1202, 7604 as a pilot project as permitted by SB 1491.

Application 03-01-013
(Filed January 16, 2003)

SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER

Summary

Pursuant to Rules 6(b)(3) and 6.3 of the Commission's Rules of Practice and Procedure,¹ this ruling sets forth the schedule, assigns a presiding hearing officer, and addresses the scope of the proceeding, following a prehearing conference (PHC) held on April 2, 2003.

Background

This application is one of a series of applications related to the construction of the Los Angeles to Pasadena Blue Line light rail system.² Unlike the other applications, which were filed by the Los Angeles to Pasadena Metro Blue Line

¹ Unless otherwise indicated, all subsequent citations to rules refer to the Rules of Practice and Procedure, which are codified at Chapter 1, Division 1 of Title 20 of the California Code of Regulations, and citations to sections refer to the Public Utilities Code.

² Since the initial applications were filed, the line has been renamed the Gold Line. That name will be used here.

Construction Authority (Construction Authority) for permission to construct a number of crossings for the light rail system, this application is filed by a community group in South Pasadena that objects to some aspects of the planned system as it runs through that city. The applicant, Pasadena Avenue Monterey Road Committee (PAMRC), requests that variances from some of the requirements of General Order (GO) 143-B be applied to the Gold Line in South Pasadena. The Los Angeles County Metropolitan Transportation Authority (MTA), the operator of the Gold Line, filed a protest on February 20, 2003. The Construction Authority filed a response to the application on February 20, 2003.

PAMRC's requested changes to the planned Gold Line fall into three groups: a "no-horn" zone in South Pasadena; a speed limit of 20 miles per hour for Gold Line trains in South Pasadena; and specific types of crossing protection devices at the Gold Line at-grade crossings in South Pasadena. PAMRC proposes that the no-horn zone be undertaken as a pilot program pursuant to § 1202, which was amended in 2001 to allow the Commission to authorize pilot programs for testing the utility and safety of alternatives to a train sounding its horn as it approaches a crossing.

Scope of the Proceeding

At the PHC, the parties agreed that they would benefit from informal discussion of the issues raised in the application, which could result in the narrowing or elimination of some issues. The MTA agreed to convene such a discussion. The parties also agreed that it would be useful to address any preliminary legal issues prior to preparing for a possible evidentiary hearing (EH). A number of legal issues were raised at the PHC. The briefing scheduled below should address these issues. If any party identifies additional relevant

legal issues within the parameters of the application, the protest, or the response, those should also be included. The issues identified at the PHC are:

- the scope of requests for a deviation under GO 143-B;
- the applicability of the pilot project authority in § 1202;
- the viability of the request for a no-horn zone if the pilot project authority does not apply;
- the impact on this proceeding of prior Commission decisions on the Construction Authority's applications;
- the standards for deciding whether any issue decided in a prior proceeding on the Construction Authority's applications should be revisited in this proceeding;
- procedural issues related to this application (*e.g.*, compliance with Rule 17.1 on the California Environmental Quality Act, Pub. Res. Code § 21000 *et seq.*).

At this time, it is not possible to characterize any potential factual disputes that might require a hearing. The parties agreed that the disputed factual questions will be clearer after the parties' informal discussions and the resolution of any legal issues raised by the briefing scheduled below. If necessary, a revised scoping memo will be issued to identify any remaining factual and legal issues.

Discovery

At the PHC, the parties agreed to exchange information informally. It is the expectation of the parties that no formal discovery will be required. If a problem in exchanging information develops, it is important that any disputes be resolved expeditiously. The parties must promptly meet and confer in a good faith effort to resolve any disputes. If that fails, any party may promptly file a written motion in accordance with Rule 45.

Parties shall follow the requirements set forth in the Appendix regarding prepared written testimony and exhibits.

Schedule

After discussion at the PHC, the parties agreed that a schedule should be set on the assumption that an EH may be required, although the need for the EH will be determined after the parties have submitted their briefs on the legal issues noted above. The parties then agreed to the following schedule for this proceeding:

Ongoing	Informal exchange of information
May 16, 2003	Concurrent briefs on legal issues
May 30, 2003	Concurrent reply briefs on legal issues
July 29, 2003	Second PHC, Commission Courtroom, San Francisco
September 5, 2003	Concurrent distribution of testimony [if needed]
September 26, 2003	Concurrent distribution of rebuttal testimony [if needed]
October 7 – 10, 2003 9 a.m.	Evidentiary Hearing, Commission Courtroom, San Francisco [if needed]
November 5, 2003	Concurrent briefs [if needed]
November 26, 2003	Concurrent reply briefs; submission of case [if needed]
February 26, 2004	Proposed decision

It is my goal to close this case within the 18-month guideline for resolution of ratesetting proceedings and this schedule meets that goal. At this time, I foresee no extraordinary circumstances, which would warrant an extension of the schedule. The presiding officer may, for good cause shown, alter this schedule within the 18-month timeframe.

Service List and Service

Subsequent to the PHC, the Commission has received communications from counsel who were not present at the PHC and did not fill out appearance forms. It is the responsibility of counsel who were present at the PHC to ensure that all persons representing or associated with the party they represent are properly identified and, if relevant, listed in the Information Only section of the service list.

All documents in this proceeding must be filed and served in accordance with Rules 2 – 2.7. In addition, courtesy copies should be provided by electronic mail to the Administrative Law Judge (ALJ) and to each person on the service list who has provided an e-mail address.

Category of Proceeding

This ruling confirms this case as ratesetting, as preliminarily determined by the Commission.

Assignment of Presiding Officer

Susan P. Kennedy is the Assigned Commissioner and ALJ Anne E. Simon is the presiding officer.

Ex Parte Rules

Ex parte communications are restricted as set forth in Rule 7.

IT IS RULED that:

1. The scope of the proceeding is as set forth herein.

2. The schedule for this proceeding is as set forth herein.
3. The presiding officer will be Administrative Law Judge Simon.
4. This ruling confirms that this proceeding is a ratesetting matter.
5. Ex parte communications are restricted as set forth in Rule 7 of the Commission's Rules of Practice and Procedure.

Dated April 28, 2003, at San Francisco, California.

/s/ SUSAN P. KENNEDY

Susan P. Kennedy
Assigned Commissioner

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated April 28, 2003, at San Francisco, California.

/s/ CLAIRE JOHNSON

Claire Johnson

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.

